

SECOND REGULAR SESSION

# HOUSE BILL NO. 1346

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES TALBOY (Sponsor), CARTER, SIFTON, HOSKINS,  
JONES (63), LAMPE AND RIZZO (Co-sponsors).

4619L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 436.218, 436.245, 436.254, and 436.257, RSMo, and to enact in lieu thereof six new sections relating to student athlete agents, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 436.218, 436.245, 436.254, and 436.257, RSMo, are repealed and  
2 six new sections enacted in lieu thereof, to be known as sections 436.218, 436.245, 436.254,  
3 436.257, 436.273, and 436.274, to read as follows:

436.218. As used in sections 436.215 to 436.272, the following terms mean:

2 (1) "Agency contract", an agreement in which a student athlete authorizes a person to  
3 negotiate or solicit on behalf of the student athlete a professional sports services contract or an  
4 endorsement contract;

5 (2) "Athlete agent", an individual who enters into an agency contract with a student  
6 athlete or directly or indirectly recruits or solicits a student athlete to enter into an agency  
7 contract[. The term does not include a spouse, parent, sibling, grandparent, or guardian of the  
8 student athlete or an individual acting solely on behalf of a professional sports team or  
9 professional sports organization. The term includes an individual who represents to the public  
10 that the individual is an athlete agent] **including, without limitation, an individual who:**

11 (a) **Is authorized by a student athlete to enter into an agreement;**

12 (b) **Works for or on behalf of an athlete agent; or**

13 (c) **Represents to the public that he or she is an athlete agent.**

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EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 **Athlete agent does not include a spouse, parent, sibling, grandparent, or guardian of the**  
16 **student athlete or an individual acting solely on behalf of a professional sports team,**  
17 **professional sports organization, or educational institution, unless that individual offers,**  
18 **solicits for himself or herself, solicits on the student athlete's behalf, or solicits on behalf**  
19 **of the student athlete's family or friends any form of a financial benefit or gift not allowed**  
20 **by the regulations or bylaws of the National Collegiate Athletic Association as they existed**  
21 **on January 1, 2012;**

22 (3) "Athletic director", an individual responsible for administering the overall athletic  
23 program of an educational institution or if an educational institution has separately administered  
24 athletic programs for male students and female students, the athletic program for males or the  
25 athletic program for females, as appropriate;

26 (4) "Contact", a direct or indirect communication between an athlete agent and a student  
27 athlete to recruit or solicit the student athlete to enter into an agency contract;

28 (5) "Director", the director of the division of professional registration;

29 (6) "Division", the division of professional registration;

30 (7) "Endorsement contract", an agreement under which a student athlete is employed or  
31 receives consideration to use on behalf of the other party any value that the student athlete may  
32 have because of publicity, reputation, following, or fame obtained because of athletic ability or  
33 performance;

34 (8) **"Family", means any person related to a student athlete by blood, marriage, or**  
35 **adoption;**

36 (9) "Intercollegiate sport", a sport played at the collegiate level for which eligibility  
37 requirements for participation by a student athlete are established by a national association for  
38 the promotion or regulation of collegiate athletics;

39 [(9)] (10) "Person", an individual, corporation, business trust, estate, trust, partnership,  
40 limited liability company, association, joint venture, government, governmental subdivision,  
41 agency, or instrumentality, public corporation, or any other legal or commercial entity;

42 [(10)] (11) "Professional sports services contract", an agreement under which an  
43 individual is employed or agrees to render services as a player on a professional sports team, with  
44 a professional sports organization, or as a professional athlete;

45 [(11)] (12) "Record", information that is inscribed on a tangible medium or that is stored  
46 in an electronic or other medium and is retrievable in perceivable form;

47 [(12)] (13) "Registration", registration as an athlete agent under sections 436.215 to  
48 436.272;

49       [(13)] **(14)** "State", a state of the United States, the District of Columbia, Puerto Rico,  
50 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction  
51 of the United States;

52       [(14)] **(15)** "Student athlete", a current student who engages in, has engaged in, is eligible  
53 to engage in, or may be eligible in the future to engage in, any intercollegiate sport.

436.245. 1. **If a student athlete is enrolled in an educational institution, an athlete  
2 agency shall provide notice to the athletic director of the educational institution at which  
3 the student athlete is enrolled before contacting the student athlete. If an athlete agent  
4 intentionally or unintentionally contacts a student athlete enrolled in an educational  
5 institution, the athlete agent shall notify the athletic director of the educational institution  
6 at which the student athlete is enrolled within seventy hours of the contact.**

7       **2.** Within seventy-two hours after entering into an agency contract **or orally agreeing**  
8 **to enter into an agency contract**, or before the next scheduled athletic event in which the  
9 student athlete may participate whichever occurs first the athlete agent shall give notice in  
10 writing of the existence of the contract **or oral agreement** to the athletic director of the  
11 educational institution at which the student athlete is enrolled or the athlete agent has reasonable  
12 grounds to believe the student athlete intends to enroll.

13       [2.] **3.** Within seventy-two hours after entering into an agency contract **or orally**  
14 **agreeing to enter into an agency contract**, or before the next athletic event in which the student  
15 athlete may participate whichever occurs first the student athlete shall in writing inform the  
16 athletic director of the educational institution at which the student athlete is enrolled that he or  
17 she has entered into an agency contract **or has orally agreed to enter into an agency contract.**

436.254. 1. An athlete agent may not do any of the following with the intent to induce  
2 a student athlete to enter into an agency contract:

3       (1) Give any materially false or misleading information or make a materially false  
4 promise or representation;

5       (2) Furnish [anything] **a good or service of value or arrange for a good or service of**  
6 **value to be furnished** to a student athlete before the student athlete enters into the agency  
7 contract; or

8       (3) Furnish [anything] **a good or service of value or arrange for a good or service of**  
9 **value to be furnished** to any individual other than the student athlete or another registered  
10 athlete agent.

11       **2.** An athlete agent may not intentionally:

12       (1) Initiate contact with a student athlete unless registered under sections 436.215 to  
13 436.272;

- 14 (2) Refuse or willfully fail to retain or permit inspection of the records required by  
15 section 436.251;
- 16 (3) Violate section 436.224 by failing to register;
- 17 (4) Provide materially false or misleading information in an application for registration  
18 or renewal of registration;
- 19 (5) Predate or postdate an agency contract; or
- 20 (6) Fail to notify a student athlete prior to the student athlete's signing an agency contract  
21 for a particular sport that the signing by the student athlete may make the student athlete  
22 ineligible to participate as a student athlete in that sport.

436.257. **The commission of any act prohibited by subsection 1 of section 436.254  
2 by an athlete agent is a class D felony; a second or subsequent offense is a class C felony.**  
3 The commission of any act prohibited by **subsection 2 of section 436.254** by an athlete agent is  
4 a class [B] A misdemeanor; **a second or subsequent offense is a class D felony.**

**436.273. The attorney general may seek a civil penalty, in any court of competent  
2 jurisdiction, against an athlete agent not to exceed two hundred fifty thousand dollars for  
3 a violation of sections 436.215 to 436.272.**

**436.274. 1. A court of competent jurisdiction may revoke a certificate of  
2 registration before, during, or after a proceeding seeking a criminal, civil, or  
3 administrative penalty under sections 436.215 to 436.272. When revoking a certificate of  
4 registration, a court of competent jurisdiction may declare a person ineligible to reapply  
5 for a certificate of registration for a period of time not to exceed five years.**

**6 2. A court of competent jurisdiction may revoke registration under this section in  
7 lieu of or in addition to other criminal, civil, or administrative penalties under sections  
8 436.215 to 436.272.**

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